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BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking Into Implementation of Federal Communications Commission Report and Order 04-87, As It Affects The Universal Lifeline Telephone Service Program.	)	R. 04-12-001

OPENING COMMENTS OF

SUREWEST TELEPHONE (U 1015 C)

AND

CALAVERAS TELEPHONE COMPANY (U 1004 C); CAL-ORE TELEPHONE CO. (U 1006 C); DUCOR TELEPHONE COMPANY (U 1007 C); FORESTHILL TELEPHONE CO. (U 1009 C); HAPPY VALLEY TELEPHONE COMPANY (U 1010 C); HORNITOS TELEPHONE COMPANY (U 1011 C); KERMAN TELEPHONE CO. (U 1012 C); PINNACLES TELEPHONE CO. (U 1013 C); THE PONDEROSA TELEPHONE CO. (U 1014 C); SIERRA TELEPHONE COMPANY, INC. (U 1016 C); THE SISKIYOU TELEPHONE COMPANY (U 1017 C); VOLCANO TELEPHONE COMPANY (U 1019 C), and WINTERHAVEN TELEPHONE COMPANY (U 1021 C)
(the "Small LECs")

ON ASSIGNED COMMISSIONER'S RULING
SETTING SCOPE OF PHASE 2

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I. INTRODUCTION.

As called for by the November 14, 2007 Assigned Commissioner's Ruling Setting Scope of Phase 2 ("ACR"), SureWest Telephone (U 1015 C), Calaveras Telephone Company (U 1004 C), Cal-Ore Telephone Co. (U 1006 C), Ducor Telephone Company (U 1007 C), Foresthill Telephone Co. (U 1009 C), Happy Valley Telephone Company (U 1010 C), Hornitos Telephone Company, (U 1011 C), Kerman Telephone Co. (U 1012 C), Pinnacles Telephone Co. (U 1013 C), The Ponderosa Telephone Co. (U 1014 C), Sierra Telephone Company, Inc. (U 1016 C), The Siskiyou Telephone Company (U 1017 C), Volcano Telephone Company (U 1019 C), and Winterhaven Telephone Company (U 1021 C) (collectively, "SureWest and the Small LECs") hereby offer their opening comments identifying further refinements to the certification and verification processes under the California LifeLine program ("LifeLine") that should be adopted in Phase 2 of this proceeding.

SureWest and the Small LECs appreciate the Commission's further attention to this issue, and support the Commission's exploration of additional ways in which the program can be improved. Although the Commission has adopted some important reforms regarding the LifeLine certification and verification procedures, further reforms are necessary to ensure that the Commission's universal service goals are met amongst low-income Californians, and to ensure that these goals are achieved in the most streamlined and cost-effective way possible. The Commission should design a program that will maximize participation by qualified individuals, and, at the same time, minimize customer back-billing and avoid imposing undue administrative costs on carriers. In further modifying the LifeLine certification/verification process, the Commission should also be conscious of its own resource and administrative limitations, particularly those that impact the Consumer Affairs Branch.

In its May 3, 2007 Decision, D.07-05-030, the Commission took some significant steps toward resolving the problems that the LifeLine program has experienced since the Commission initiated the enhanced certification and verification requirements mandated under the *LifeLine/Linkup Order.*[1] SureWest and the Small LECs particularly appreciate the Commission's directive in D.07-05-030 that the LifeLine Third-Party Administrator ("TPA") must utilize first-class mail for sending all certification

[1] *LifeLine and Link-Up Report and Order and Further Notice of Proposed Rulemaking,* WC Docket No. 03-109, FCC 04-87 (rel. April 29, 2004).

and verification documents to customers. *See* D.07-05-030, *mimeo*, at p. 39 (Ordering Paragraph ("O.P.") 5). Through the LifeLine "working groups" endorsed by that decision, the Commission has also helped resolve some of the data transfer and protocol issues that have arisen between the TPA and carriers.

While the existing reforms have helped minimize the customer annoyance and administrative difficulties associated with the program, further reforms must be adopted. Most significantly, SureWest and the Small LECs urge the Commission to abandon the current policy of offering LifeLine discounts before customers have demonstrated their qualification under the program. SureWest and the Small LECs believe that the current procedure for issuing LifeLine discounts and then back-billing customers who are deemed ineligible has had a damaging effect on customers' perception of the program, and has resulted in significant back-billings for the most vulnerable sub-set of customers. The system has also created significant and costly administrative problems for carriers, and has generated large volumes of complaints to the Commission. LifeLine customers and potential LifeLine customers would be better served by a system that determines their eligibility prior to being enrolled in the program to avoid the possibility of large back-billings, such as those that can occur under the current certification process. Many of the remaining difficulties with the LifeLine certification process would be resolved if the Commission moved to a pre-qualification regime, such as that proposed in the ACR. *See* ACR, at p. 5.

Other issues also merit consideration in Phase 2 of this proceeding. The Commission should work with carriers and the TPA to continue to improve the data transfer processes on which the program currently relies. The Commission should also examine more extensive program-based alternatives, and work to develop a web-based enrollment process that will facilitate swifter access to LifeLine discounts.

II. ADOPTION OF A PRE-QUALIFICATION PROCEDURE WILL BENEFIT LIFELINE PROGRAM PARTICIPANTS, CARRIERS, AND THE COMMISSION.

The Commission should discontinue the requirement that LifeLine discounts be given to customers before they have been certified by the TPA. Throughout this proceeding, SureWest and the Small LECs have emphasized to the Commission that a pre-qualification regime would be simpler and more customer-friendly than the current system of giving customers discounts for which they have not yet been certified. While customers may experience certain delays in receiving discounts under a pre-qualification process, these modest delays are far preferable to the back-billing and certification churn that have occurred since the new LifeLine certification process was implemented in July 2006. In light of the various problems the consumers and carriers have experienced under the current system, the time has come to reverse the Commission's approach to LifeLine certification. SureWest and the Small LECs urge the Commission to do so as soon as possible in Phase 2 of this proceeding.

There are numerous problems with the current certification process. Most importantly, the back-billing issues raised by granting discounts to un-certified customers are significant, and the impact on customers can be severe. Under the current system, if a customer fails to return a certification form in a timely manner or fails to properly demonstrate that he or she meets the program criteria, the customer will be back-billed for the discounted portion of three months of service in most cases, plus the discounted portion of any applicable connection or conversion fee. Depending on the carrier, the back-billed amounts could be between \$50 and \$100. These are considerable sums for households that are truly qualified for LifeLine. If the customer re-applies for LifeLine and is again denied, the customer could be forced to pay another \$50 to \$100 in back-billings. Given that many customers have been denied LifeLine discounts due to technical defects in their certification documents rather than findings that they are not qualified, a system that necessitates these back-billings is particularly problematic.

An example can be helpful to illustrate this problem. If a customer signs up for service on December 1, 2007, and the customer states that his or her household qualifies for LifeLine discounts, the customer will be given the discount effective that day. The TPA would then generate the certification documentation for the customer to fill out. Based on the timeframes adopted in D.07-05-030, the customer would have 52 days (44 days plus an eight-day grace period) from the date that the TPA mailed the forms to return the certification documents with proof of eligibility. Assuming the TPA mails the forms within three days of the customer's service initiation, a customer could have until approximately January 24, 2008 to demonstrate eligibility. At this point, the customer would have received discounted service for December 2007 and January 2008. By the time that the TPA renders a decision regarding eligibility to the carrier, the customer would almost certainly have received a discount for February 2008 as well.

Assuming that the carrier in question has a basic rate of $18.34, the customer would have received a $13.00 ($18.34 minus AT&T's $5.34 rate) per month discount on his or her basic service, for a total of $39.00 ($13.00 times three months). The customer would also have received a discount on the service connection fee. Assuming a connection fee of $25.00, the customer would have received an additional discount of $15.00. Under General Order 153, LifeLine customers cannot be charged the End User Common Line charge, nor can they be charged any of the public policy fund surcharges. Assuming that these fees and surcharges would amount to $8.00 per month, the customer's total back-billings in this example would be $78.00. For carriers with higher rates or connection fees, the total back-billings would be even more significant.

For low-income customers who are qualified or nearly qualified for LifeLine, paying these sums upon denial of eligibility could be financially damaging. In some cases, the prospect of these sums could be too much for low-income families to bear, and they might be forced to drop their phone lines rather than risk going through the certification process again. These back-billing situations have occurred in large numbers since the current certification process was adopted in July 2006, and these situations will continue to arise unless a pre-qualification system is put in place.

Compare how the customer would fare in the example above if eligibility were determined prior to certification. If the customer initiates service on December 1, 2007, the customer would have to pay a $25.00 connection fee, plus $18.34 for basic service, and $8.00 in fees and surcharges, for a total of $51.34. This is approximately $36.00 more than the customer would have paid if he or she was deemed certified. If the TPA mails the certification documents within three days, the customer will most likely receive the documents within a week. If this occurs and the customer qualifies, the customer's January 1, 2008 bill would reflect the $36.00 credit relating to the December charges along with their LifeLine discounts for January.

As this example illustrates, a pre-qualification system would avoid the back-billing scenario, and would create strong incentives for the customer to comply with the certification requirements in a timely manner. Offering the LifeLine discount upon service initiation avoids the initial customer outlay of $36.00, but it exposes the customer to more than double that amount in back-billings, where the certification process proves unsuccessful. If the customer in this example is diligent in returning the certification documents, the customer would pay the $36.00 up front, but would get a credit back for the $36.00 after only one month. If the connection fee were spread out over the first three billing cycles, the up front amount would only be $34.67 ($8.33 connection fee plus $8.00 in surcharges plus $18.34 in monthly charges), which is only $11.33 more than the customer would pay under the current system.

The incentives for customers under a pre-qualification regime are far favorable than those under the current procedure. Under the existing process, the issuance of discounts upon service initiation conveys the mis-impression that no further customer action is necessary to preserve the discount. Under a pre-qualification process, the customer would be encouraged to send in the certification documents as swiftly as possible to avoid paying full tariffed rates, and to receive the discount on the service initiation fees. Moreover, even if customers experience difficulties with certification, at least their failed certifications would not subject them to large, unexpected back-billed amounts that might drive them into financial difficulties and possibly cause them to go without telephone service.

As it moves toward a pre-qualification system, the Commission should take steps to mitigate the impact of the up-front payment of full tariffed rates. The Commission should take steps to streamline the TPA's processes to ensure that the certification process can be completed within one month if customers return their certification documents in a timely manner. The Commission could also adopt a requirement that the connection charge or conversion charge be spread out over a three-month billing period for prospective LifeLine customers. Indeed, some carriers already offer this as an option for customers. The Commission should also continue to work to rely more extensively on program-based certifications, and to develop an automated web-based option that would allow customers to receive certifications more swiftly.

A prequalification process would benefit carriers in addition to LifeLine program participants. Under the current system, carriers are experiencing significant administrative complexities and difficulties regarding their claims. When a customer states that he or she is eligible for LifeLine, the carrier issues an immediate credit, and generates a claim to recover the lost revenues and associated amounts from the ULTS fund. At the same time, the carrier must claim the federal portion of the LifeLine discount from USAC. If the customer ultimately turns out to be ineligible, these amounts must be sought from the customer. If the carrier recovers the amounts, they are returned to the state and federal funds. This process has raised a host of accounting and administrative complications that would not arise under a pre-qualification regime. Carriers have been called upon to update claims from previous months once decisions regarding eligibility are rendered. Some USAC staff have also called into question the legitimacy of the discounts, since they are going to customers who are not certified at the time the discounts are given. A pre-qualification process would significantly simplify the carrier claims procedure, and would eliminate concerns that discounts are being given to ineligible individuals.

SureWest and the Small LECs strongly support modifying the LifeLine certification process to give discounts only after customers have been properly certified. SureWest and the Small LECs look forward to working with the Commission to implement pre-qualification in the most efficient and customer-conscious way possible.

III. THE COMMISSION SHOULD CONTINUE TO WORK WITH CARRIERS TO IDENTIFY WAYS TO IMPROVE THE TRANSFER OF RECORDS AND OTHER INFORMATION BETWEEN THE THIRD-PARTY ADMINISTRATOR, THE COMMISSION, AND CARRIERS.

As the Commission recognized in D.07-05-030, there have been a variety of problems regarding the transfer of records between carriers and the TPA, and between carriers, the TPA, and the Commission when appeals and complaints arise. Although some of these issues have been addressed through the working groups, the Commission should continue to look for ways to improve the process. For example, the Commission should ensure that the LifeLine discount remains available to eligible customers when they change carriers, when they change addresses, and when they disconnect and reconnect service. Recent discussions amongst the members of the implementation working group have revealed that when a customer is in the 104-day verification window, an eligible LifeLine customer who disconnects and reconnects service will be required to go through the certification process as if the customer is new to the program, even if the customer disconnects and reconnects within 30 days. This is an unfair result, and is inconsistent with the Commission's policy that LifeLine eligibility should remain valid until a customer is deemed ineligible.

More generally, the Commission should adopt a consistent policy for dealing with LifeLine-eligible customers who disconnect and reconnect service. Although it does not appear in General Order 153, the TPA's current practice has been to place customers into the certification process – as opposed to the more lenient verification process – once they have been out of service for more than 30 days. SureWest and the Small LECs do not necessarily object to this policy, but a rule of this level of significance should be examined by the Commission itself, not adopted as a *de facto* business practice of the TPA. SureWest and the Small LECs had understood from the workshops and discussions earlier in this proceeding that the LifeLine discount was intended to be "portable." That is, a certified customer would remain certified for one year, without regard to whether the customer disconnects and reconnects service, changes carriers, or changes addresses. The 30-day rule is inconsistent with this "portability" concept. Going forward, the Commission should clarify the operation of the rule, and carefully define the circumstances in which it applies.

IV. THE COMMISSION SHOULD LOOK TO OTHER STATES FOR WAYS TO DEVELOP WEB-BASED ENROLLMENT ALTERNATIVES AND TO EXPAND PROGRAM-BASED ELIGIBILITY OPTIONS.

A further reliance on program-based eligibility, and the development of an effective system for expeditious web-based enrollment would both improve the Commission's current certification process. SureWest and the Small LECs understand that both Texas and Florida have significant program-based channels through which LifeLine eligibility is handled. SureWest and the Small LECs look forward to reviewing suggestions from other carriers and consumer groups who have experience in those states. However, in general, a greater reliance on program-based eligibility would improve the program generally by reducing the need for processing income-based applications, which have caused the most difficulty. Web-based alternatives may also help improve the system by reducing processing times.

As the Commission considers these options, it should not eliminate the option of income-based enrollment. Customers may still need to rely on this option to demonstrate their eligibility, particularly if they have not yet signed up for some of the other programs that would qualify them automatically for LifeLine discounts. If more extensive program-based alternatives are successful, the need for income-based options will naturally diminish.

V. CONCLUSION.

SureWest and the Small LECs appreciate this opportunity to help shape the analysis in Phase 2 of this proceeding. SureWest and the Small LECs urge the Commission to adopt a pre-qualification procedure, and to consider the other issues presented above in Phase 2.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I, Noel Gieleghem, declare:

I am a resident of the State of California, over the age of eighteen years, and not a party to the within action. My business address is COOPER, WHITE & COOPER LLP, 201 California Street, 17th Floor, San Francisco, CA 94111.

On December 14, 2007, I served the following:

OPENING COMMENTS OF

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AND

CALAVERAS TELEPHONE COMPANY (U 1004 C); CAL-ORE TELEPHONE CO. (U 1006 C); DUCOR TELEPHONE COMPANY (U 1007 C); FORESTHILL TELEPHONE CO. (U 1009 C); HAPPY VALLEY TELEPHONE COMPANY (U 1010 C); HORNITOS TELEPHONE COMPANY (U 1011 C); KERMAN TELEPHONE CO. (U 1012 C); PINNACLES TELEPHONE CO. (U 1013 C); THE PONDEROSA TELEPHONE CO. (U 1014 C); SIERRA TELEPHONE COMPANY, INC. (U 1016 C); THE SISKIYOU TELEPHONE COMPANY (U 1017 C); VOLCANO TELEPHONE COMPANY (U 1019 C), and WINTERHAVEN TELEPHONE COMPANY (U 1021 C) (the "Small LECs")

ON ASSIGNED COMMISSIONER'S RULING SETTING SCOPE OF PHASE 2

by e-mailing a searchable Adobe Acrobat PDF copy of this document to the parties on the attached service list who provided an e-mail address. Hard copies were also served on the parties who did not provide an e-mail address by placing true and correct copy thereof with the firm's mailing room personnel for mailing in accordance with the firm's ordinary practices. Hard copies were also mailed to Assigned ALJ Karen A. Jones and Assigned Commissioner Dian Grueneich.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on December 14, 2007 at San Francisco, California.

Noel Gieleghem

Noel Gieleghem

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